

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	NO.99-CR-30249-WDS
)	
TWAIN JONES,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

STIEHL, District Judge:

This matter is before the Court on defendant's pro se motion to modify his sentence (Doc. 110). The defendant asserts that he was improperly sentenced on his concurrent sentence, and the Court should not have counted his possession of a firearm when calculating his sentence. This is, in essence, a collateral attack on his sentence.

No matter what the title placed on the motion filed by the defendant, if the motion actually is one which seeks review of the sentence, it must be filed as a habeas action pursuant to 28 U.S.C. § 2255. The defendant has filed a previous motion for habeas relief. *Jones v. United States*, 02-CR-1062, which was denied by this Court and affirmed on appeal (Docs. 45 & 46). The defendant has not sought and received leave to file a second or successive petition, a requirement before this Court can proceed on this motion. 28 U.S.C. § 2244(b)(3). Accordingly, the Court is without jurisdiction to hear this motion to modify and it is **DISMISSED**.

IT IS SO ORDERED

DATE: 22 November, 2010

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE